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Auguſt 5. 1766.

ANSWERS

FOR

David Meyn, one of the conſtables within the precincts of the Abbey of Holyroodhouſe,

TO

The PETITION and COMPLAINT of poor James Selby, late vintner in the Abbey of Holyroodhouſe, now in Jedburgh.

THE reſpondent is accuſed of having ſuffered a priſoner, debtor to the complainer, to eſcape, who had been apprehended, and put under the care of William Black and Peter Caw, meſſengers in Edinburgh, and of the reſpondent. He hopes however that he ſhall be able to ſatisfy your Lordſhips, that this charge againſt him is without foundation; and that whatever negligence may be charged againſt Black and Caw, he himſelf has been in no degree to blame.

It is ſet forth, That the complainer having become creditor to Lieutenant James Grierſon in the ſum of L. 5 : 4 : 7 Sterling, who had retired to the Abbey for ſanctuary, brought an action againſt him for payment before the ſheriff of Edinburgh, and obtained decreet: That having thereupon raiſed diligence, firſt horning, and afterwards caption, he in virtue of the laſt charged James Wilſon, bailie of the Abbey, to ſearch for and apprehend the ſaid James Grierſon, whereever he might be found within the bounds of his office and jurisdiction;

juriſdiction; and being ſo apprehended, to detain him a priſoner.

Mar. 28. 1766. The ſaid James Wilſon, bailie of the Abbey, of this date, gave the following deliverance on the back of the ſheriff's decree. " Having conſidered that a caption was raiſed for payment " of the ſums within decerned for, and that I have been charged " thereupon to impriſon the within James Grierſon in the tol- " booth of the Abbey of Holyroodhouſe; *and in regard there is* " *no priſon within that juriſdiction, grants warrant to the officers* " *and conſtables within the precincts and liberties of the Abbey,* " *to concur with meſſengers at arms, and other executors of the* " *law, in ſearching for and apprehending the* perſon of the ſaid " James Grierſon, within the ſaid juriſdiction, ſo as he may be " incarcerated within the neareſt ſure priſon, until he fulfil the " charge of horning given him; and that in terms of the letters " of caption iſſued thereupon, and executed againſt me."

In conſequence of this deliverance, the complainer put his diligence into the hands of William Black meſſenger in Edinburgh; and not into the reſpondent's, who never ſaw that diligence till he was ſent for by Black, after Grierſon had been apprehended.

Your Lordſhips will be informed, that the priſon within the liberties of the Abbey many years ago became ruinous, and is now altogether unfit for any uſe; and it has for ſome time therefore paſt been neceſſary to convey any priſoner apprehended there to a priſon within the bounds of ſome o ther juriſdiction. It will therefore be obſerved, that all the bailie of the Abbey can do, is to grant warrant to his officers to concur with meſſengers in apprehending the priſoner, who is to be carried to a priſon without the bounds of his juriſdiction: and that therefore all that theſe officers and conſtables are required to do, is to concur and give their aſſiſtance in ſeizing the priſoner, and putting him into the hands of the meſſengers. The meſſengers therefore were the

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perſons chiefly intereſted: the reſpondent was only to concur with them in ſeizing the priſoner; and as ſoon as he was ſeized, and in the cuſtody of the meſſengers, his charge was at an end: he had thus done all that he was bound to do by order of Bailie Wilſon, which was to concur with the meſſengers in apprehending Grierſon, and then it became their duty to conduct him ſafely into the priſon in which he was to be confined.

Black the meſſenger cannot deny, that the reſpondent gave him all ſort of aſſiſtance in ſearching for and apprehending Grierſon, and that he was put into his cuſtody; and that thereafter, as Grierſon made much oppoſition to the legality of carrying him from the Abbey, Black ſent for the aſſiſtance and advice of Peter Caw another meſſenger. It is indeed true, that Black, being then heartily tired with guarding Grierſon, was exceedingly deſirous of throwing that burden upon the reſpondent. The reſpondent, however, conſidering his duty to be at an end, poſitively refuſed to accept of that charge; but at the ſame time offered, if Mr Black wanted any further aſſiſtance, to procure for him a party of the Abbey guard, which he was intitled to call for upon ſuch occaſions. This offer Black and Caw thought proper to refuſe; and the reſpondent having, as he humbly apprehends, thus fulfilled his duty, was ſoon after obliged to go away on his own private buſineſs. He heard nothing further of the matter till after Grierſon had made his eſcape, and he was altogether ignorant of the manner in which that happened.

It is indeed true, that, about an hour or ſo after Grierſon had made his eſcape, the complainer took a proteſt againſt Black and the reſpondent, for having them made liable in damages. But he was never deſired a ſecond time to concur in putting the diligence in execution; and he likewiſe denies, that any proteſt was ever taken againſt him on that account.

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If the complainer had attached the reſpondent alone, the complaint would have immediately appeared to be without foundation. But he has thought proper to attack him jointly with Black and Caw, without diſtinguiſhing; and has therefore thrown an appearance of guilt upon the reſpondent, who is altogether innocent, however blameable the conduct of Black and Caw may be found to have been.

The reſpondent therefore hopes, that he has thus ſufficiently ſatisfied your Lordſhips, that the complaint againſt him is unjuſt, and without any foundation.

In reſpect whereof, &c.

ROBERT CULLEN.